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THE STORY OF MY FIRST INVENTION

ILLUSTRATED

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BY HENRY C. THOMSON
" BOSTON, MASS., U.S.A.

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The Story of My First Invention

Sometimes when I let my mind wander back to the time I made my first invention, twenty-odd years ago, the circumstances surrounding it seem like the memory of a vivid dream. How well I remember my varying moods of hope and despair, the pleasure of expectation, and the bitterness of failure; my original idea of the soundness of my beliefs, and at last the conviction of my erring judgment; the strong impression I held at first that the Legal Aspect (the Patent) was the *all-important factor*, but which slowly died, to be replaced eventually by an unalterable belief, which years of practical experience have confirmed, that I was wrong. My subsequent business life— inventing, manufacturing, and selling— combined with my professional duties, proved to my satisfaction that the Commercial Aspect, rather than the Patent, is of primary and greatest importance.

I can smile *now* and charge it off to experience, the kind of experience worth while, because dearly bought, and in my case profited by, but, oh! how serious it was then. No one, unless he has been through a similar experience, can realize the mental anguish I experienced when I came to a full appreciation of the fact that, instead of being well started on the road to fortune, I had been wending my way along a blind alley which terminated in a brick wall. I had spent every dollar of my money, and all I could borrow of my friends, and at the end had nothing to show for it but two sheets of parchment paper tied with a blue ribbon, with a red seal affixed; in other words, what Uncle Sam designates as "Letters Patent," the most deceiving document (to the ordinary individual) of any "grant" issued by the United States Government, one which, while seemingly giving you the exclusive right to "make, use, and vend" your invention, qualifies that right by that tantalizing word— IF— which, while not expressed in print may stand like a sentinel to restrain your progress.

On page 2 is shown a reduced fac-simile—a reproduction of one of my patents— showing where the words "exclusive right to make, use and vend" appear. The underscoring is by the author, to enable you to more easily find the location. I also call your attention to the words "an alleged" and "improvement" around which I have ruled a line just above "Eye Glasses," the title of the invention.

The restriction carried by *this implied word IF*, combined with the inability of ordinary Patent Attorneys to appreciate the *all important* Commercial Factor of invention, and thus help to guide their client in the right direction, has proven to be two of the principal reasons for the undoing financially of verily tens of thousands, and mentally of many hundreds of honest men, trying to acquire a competence from the creations of their own intellects.

UNITED STATES OF AMERICA



698,078

To all to whom these presents shall come:

Whereas *Henry C. Thomson*
of Boston, Massachusetts

has presented to the Commissioner of Patents a petition praying
for the grant of Letters Patent for an alleged new and useful improvement in

Eye-glasses,

a description of which invention is contained in the specification of which
a copy is herewith annexed and made a part hereof, and has complied
with the various requirements of law in such cases made and provided, and

Whereas upon due examination made the said claimant is adjudged
to be justly entitled to a Patent under the law.

Wherefore, therefore, these Letters Patent are to grant unto the said

Henry C. Thomson, his ^{heirs or assigns}
for the term of Seventeen years from the twenty-second day of
April, one thousand nine hundred and two
the exclusive right to make use and vend the said invention throughout the
United States and the Territories thereof.

In testimony whereof I have hereunto set my
hand and caused the seal of the Patent Office
to be affixed at the City of Washington
Twenty-second day of April
One thousand nine hundred and two and of
the Independence of the United States of America
the one hundred and twenty-sixth.

G. I. Allen
Commissioner of Patents

REPRODUCTION OF TITLE-PAGE OF A UNITED STATES PATENT

The above is a reproduction of the title-page of a United States Patent. The constitutional provision for the granting of a Patent was given in Art. 1, Sec 8. "The Congress shall have power . . . to promote the progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the EXCLUSIVE Right to their respective Writings and Discoveries." The Patent Office is a part of the Department of the Interior.

I CONCEIVE AN IDEA

My first invention was not one of those studiously thought out ideas, where, knowing the necessity of improvement, as the Patent Law puts it, "of a new and useful art, machine, manufacture, etc., " the inventor works on it, and by a slow, step-by-step process gradually evolves a means of accomplishment, but was one that came to me instantly.

When I was engaged in manufacturing, that was before I became an attorney, I generally had to work long and faithfully on an idea before the complete conception and final construction was evolved in my mind. Notwithstanding the fact that I have had granted me by the United States and Foreign Patent Offices, twenty-seven patents.

This first invention makes a story which I hope the reader will find not only interesting, but instructive. It is not an unusual story from the commercial side, but is somewhat out of the ordinary from the number of legal difficulties encountered.

My first inventive idea was an inkstand. It flashed into being as I one day asked myself this question, "Why couldn't an inkstand be improved by providing a means for keeping the pen-point in the ink while not in use, and in a position where the pen could be grasped instantly and used without the necessity of redipping the pen?" I also wondered whether this method would not, in addition to this advantage, overcome the objectionable feature that ink will dry on a pen that is laid aside and require cleaning before it can be used.

The idea looked good to me, and I had a zinc model made and tried it for a number of weeks. It worked satisfactorily during my test, and every day seemed to grow brighter for me. I commenced to build castles in the air, to figure out how many persons probably used inkstands, how many I ought to sell, and at what price, to calculate what my profits from the sale of them ought to bring from year to year, and, I am ashamed to admit even now, to ponder over what I would do with the money.

The house and stable and grounds I had built in my mind's eye out of anticipated profits from its sale never materialized, because of the unforeseen happenings which followed, and were not acquired until success was achieved from later inventions. In reality, the house I came very near being an inmate of, after my first experience, was the *poorhouse*.

Foolish young man that I was, I showed the invention first to my friends, took counsel from them, and made no effort to become informed on the many complex problems in connection with patentable invention. When they, figuratively, patted me on the back and said my invention was "the finest ever," that it was "the best inkstand ever invented," and made other similar remarks of commendation, my enthusiasm knew no bounds, and I saw the fortune I had accumulated in my mind nearer reality than ever, almost in the bank and ready for me to draw upon.

Why this exuberance of spirits, this growing belief in my importance in the inventive field?

Because I was inexperienced and did not seek advice where I might expect to receive criticism. I was in the mental condition of many, perhaps I might say most, inventors, with their first Patent. I did not *want* criticism, and considered knowledge of Patents unnecessary. I failed to seek advice where my construction would be carefully inspected as a cold-blooded business proposition,

minus the enthusiasm and hopes I had put into it myself. I did not make this investigation, for it did not then seem worth while. I argued myself into the belief that my own tests were fair ones, and that my friends' opinions were sound.

I have since learned that an inventor's best friends are many times his worst enemies. They invariably express their approval of one's efforts, making no criticism for fear of wounding his feelings.

As the result of my long experience, I want to suggest that when you show an idea to a friend, something which has appealed to you as being worth while, something in which you have discovered novelty and advantage, reverse the usual question, which is, "Don't you think this is a pretty good thing?" by simply explaining to him the advantages you believe exist in your construction, and then end the conversation on the matter with this question, "Will you think my idea over and see if you can find any 'bug' (defect) in it?"

He will do you a great *service* if he does this, while he may do you lasting injury if he commends your idea. To agree with another requires no exercise of the mind, but to differ, with an ability to state *why*, one must employ judgment and give careful consideration to a subject.

Two of my pet maxims, based on experience, are:

(1) "Search for defects, the advantages will take care of themselves."

(2) "Welcome criticism, it has helped perfect many an invention."

In addition, have in mind, that if the public does not immediately find an existing defect or disadvantage, your competitor soon will and quickly inform the public.

I CONSULT AN ATTORNEY

About this time I came to the conclusion that I ought to consult a Patent Attorney. I had secured pamphlets from the several Washington attorneys who advertised, and had received the usual mass of literature, which, after reading, convinced me then (it did not later) more than ever, that I was on the "Royal Road to Fortune" through my invention, and frightened me into the belief that every one to whom I showed my model was immediately going to steal it from me. I have since learned that the chances of a person to whom you show an invention stealing it, are so remote and so little to be feared, that it hardly need be considered (unless you are working with another), for it happens about as often as children are kidnaped, and that is about one in every million.

In addition to writing to the Patent Attorneys who advertise, I also looked up local Patent Attorneys, and had a talk with several, both as regards the cost of taking a Patent and the method of procedure.

At last I decided on one who was recommended to me, showed him my model, and explained its operation and its advantages over other inkstands. His conversation still further impressed me with the value of my invention. It wouldn't be fair to his memory (for he is since deceased) to say he intended to deceive me; it was not exactly that, but what served its purpose even worse, for it was a certain quiet acceptance, and thereby approval of the advantages I claimed by an occasional nod and a rather enthusiastic "Yes, yes," as I mentioned one after another the advantages I believed existed

in my construction. His attitude carried conviction and combined with it a certain amount of flattery, which was, as I must admit, acceptable and pleasurable to me in those days.

His position, however, was nothing to the flattering deceit practiced by certain Washington Patent Attorneys, who advertise extensively. One wrote me, when I took up an investigation of all attorneys who advertise, to learn how they were conducting business, as follows: I quote his exact words, "I have felt all along that you have an invention worth while; one that is patentable and promises success."

Could there be a more reprehensible method of trying to separate an inventor from the money representing the cost of a Patent? In point of fact I had never even suggested to him that I even had an invention. I simply asked him for his booklet.

I remember I went home and thought the whole situation over, and believed I was acting wisely and conservatively when I laid down \$50 (\$15 for the first Government fee and \$35 for the attorney's fee and the drawings) on the attorney's table and told him to go ahead. I confess that \$50 looked big to me in those days; but as I felt that it was the forerunner of a fortune, I did not begrudge it.

My Patent application was filed in December and "allowed" (the term used by the Patent Office when a Patent is ready to issue) in the spring of the following year. My attorney suggested taking advantage of the fact that a Patent after being allowed by the examiner may remain in the Patent Office six months before it must be issued, which in my case occurred the following December.

While my Patent was under consideration in the Patent Office, I was making further experiments with my device, trying to determine how I should actually manufacture it.

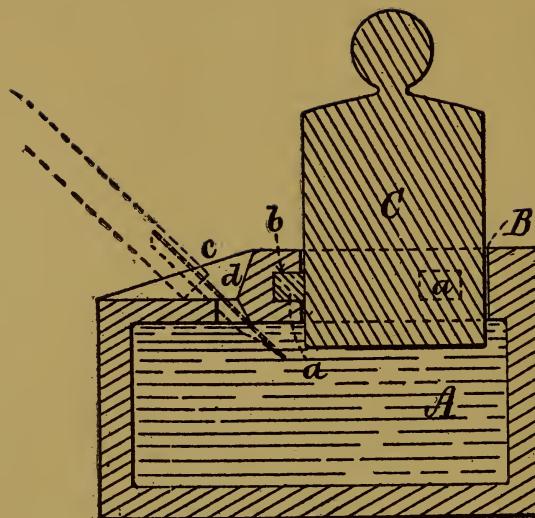
This is what I should have done before I had spent a dollar on a Patent application, as experience has taught me since. As it was, after I had decided on the exact size of my ink receptacle, I consulted a number of glass manufacturers and found, much to my surprise and dismay, that the model construction I had had made in zinc was impossible to mold in glass, although I had been informed by my model-maker that it was practicable.

An illustration of my first construction is given on page 6. I was caught as thousands of other inventors have been, before and since, who depend upon glass for their construction (non-refillable bottles are a good example), only to find later that it "would not mold."

The same difficulty frequently arises in casting metals. An inventor will make his model and find that patterns made accordingly cannot be removed from the sand, possibly requiring a different construction, which would not conform to his Patent claim.

Figuratively speaking, the day I learned of my inability to mold my device, cold sweat stood prominently on my forehead, for then I discovered, as the slang phrase puts it, I was "up against it." I had already spent in models and attorneys' fees over \$200, and here I was with something which could not be made in glass, the only material which it seemed to me would make a satisfactory construction.

Perhaps you may suggest that after I had discovered this difficulty I should have given up the scheme as a failure, but I am naturally persistent, and I had a firm belief that the principle of keeping the pen-point always in the ink, with the pen in position to be instantly grasped, filled with ink, was a good one, so it led me to



AUTHOR'S FIRST MODEL OF HIS INKSTAND

"FAKE SEARCH" EXPOSÉ

On page 9 will be found a reproduction of a drawing (a duplicate of the Patent illustrated on page 8) sent to six Washington attorneys who advertise to make "Free Searches." This term meaning to compare the inventor's drawing with Patents already issued.

Each of the SIX was asked whether they deemed the construction patentable, and each requested to make a search of the Patent Office records to ascertain whether the idea was original.

Reader. Think over the following statement *carefully* when you are tempted to put your invention in the care of such vultures.

EVERY ONE of these six—shall I, or not, call them "crooks"?—stated that not only did they consider the construction patentable, but that NOTHING SIMILAR HAD EVER BEEN PATENTED. Some even commented on its originality.

Whose pocketbooks do you believe they were thinking about? What is the object of the "free search," "no Patent no pay schemes"? Answer! To get your money, and—mark you! there is a "string" on every "refund your money" scheme stronger than the cable that holds the mightiest ocean liner to her dock.

seek some other construction in which I could retain the same principle.

I DEVISE A NEW FORM

Just before the expiration of the six months allowed by the Government before the final fee must be paid, I devised a new method of construction, shown on page 8, that overcame the objections I have just explained, but that presented, however, another very serious matter for my consideration. Here I was with a Patent already allowed, upon which I must pay \$20, in order for it to issue, and a new scheme which meant an extra expenditure of \$75 more.

Talk about calculation by a financier, I can assure you, that I found it a much more difficult problem to finance this situation than some promoters would in floating bonds for millions of dollars. I was buoyed up to a certain extent by tales of inventors who had been through the same financial struggle, and had won out, but it did not change the condition of my cash account at that particular moment.

Fortunately, my Patent Attorney did not suggest that I procure a loan from my friends, making an assignment of a portion of my Patent in exchange for the accommodation. This abominable practice was not in vogue as much at that time as it is at the present day. Now it is advocated by attorneys who do not care how much the interest of their clients is injured or destroyed, if they secure their fees for procuring the Patent and drawing the assignment.

My attorney advised, and at last I agreed to pay the \$20 and allow my first Patent to issue. He gave as a reason that as long as I had already spent \$55 in the first construction, I had better pay the remaining \$20 to keep any one else from using it. I now realize, however, that I was literally throwing the money away, although at that time I was in such a quandary I did not know how to proceed in order to serve my own best interests.

I had arrived at a point in my experience where my friends could not help me further by any suggestions, while the only attorney whom I knew other than my Patent Attorney, stated that he could not form any opinion of what I should do, as "he did not know anything about Patents." I was now, as the saying goes, "between the devil and the deep sea"; if I gave up now I should surely lose all I had put in. If I kept on I might succeed.

After much deliberation I chose the latter course, as it seemed to me I ought to be able to make a success, for I was confident my second construction was more practical than the first. In other words, my decision was in line with my hopes, and I gave my Patent Attorney \$50 additional for my second Patent.

After I had started my second Patent application, it occurred to me that I might have cast a screw in the base of the inkwell in the first construction, which would have allowed the plunger to be raised or depressed at will, and then have made a separate cover which would have overcome the glass-molding objection. I consulted with my Patent Attorney in relation to this change, and was much surprised when he told me that this construction would not be covered by the claims of my Patent, which restricted the control of the plunger to "Springs a, b" supported in "Chamber A."

I told him I could not understand any such restrictions being necessary. He commenced to explain the principle of Patents and the law of invention, very little of which I could understand. Naturally my untrained mind could not absorb and appreciate such a complicated subject in such a short space of time.

(No Model.)

H. C. THOMSON.
ADJUSTABLE PEN REST FOR INKSTANDS.

No. 11,112.

Reissued Sept. 23, 1890.

Fig. 1

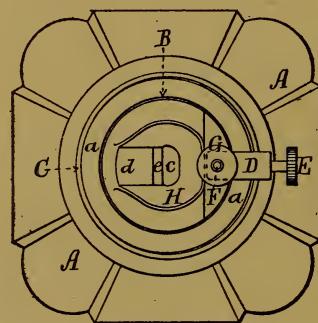


Fig. 2.

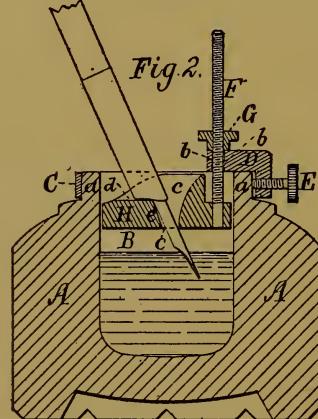
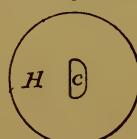


Fig. 3.



Fig. 4.



Witnesses.

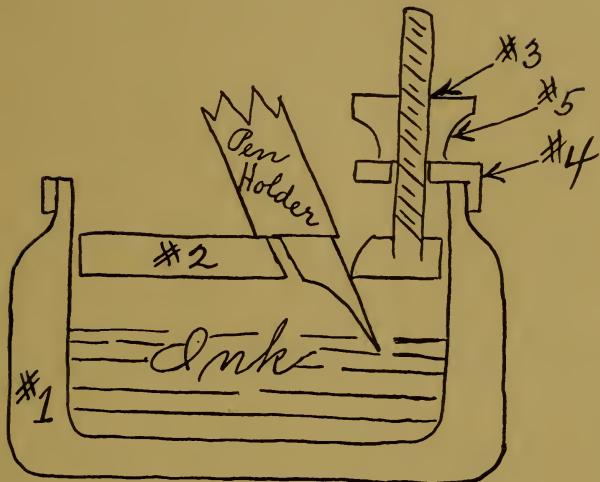
W. E. G.
A. F. P.

Inventor.

Henry C. Thomson.

AUTHOR'S FINAL MODEL OF INKSTAND

Inkstand



Description

- #1 Glass inkstand
- #2 Round glass disc with flaring mouth
- #3 A screw fastened to disc
- #4 An arm through which screw slides
- #5 A nut for raising or lowering disc

Advantages

Disc can be adjusted in inkstand to allow only the proper amount of ink to be taken up by the pen. Disc prevents evaporation and entrance of dust. Pen left in ink prevents ink drying on it.

DRAWING USED IN ENSNARING FAKE "SEARCH" SCHEME ATTORNEYS

See page 6 for a description of the method used to expose these crooks.

I left his office, and upon reaching home tried to bring to mind as much of his explanation as possible, and to reason out in a way which would seem sensible to me as many of the important points as I could remember. I grasped fairly well his explanation of how the claims were originated (the most important part of a Patent), that they were created from the "Specifications"—that is, descriptions of the method of construction and operation of an invention, and then I commenced to wonder why he had not so constructed my claim that the change I desired would come within what is termed "the scope of the Patent."

My naturally analytical mind began to work on the problem, and the next day, when I called upon him, I asked him why he had not made the claim in such a way that some other method of supporting the plunger could be utilized. His reply amounted to an evasion, for he said that I had not told him that the plunger could be controlled by any other means.

I presume that this statement has been made thousands of times to as many inventors, who have asked similar questions after their Patents have been granted, and who did not know, as I did not at the time, that it was an attorney's business to study the device sufficiently to ascertain that some other construction was possible than the specific method employed by the inventor.

Of course, it is not always possible to provide for changes in construction, as some inventions are so similar to prior ones that they must necessarily be restricted to the exact methods described; but in my case it was possible. The attitude of my attorney then seemed singular to me, but it is perfectly clear to me now.

An ordinary Patent Attorney deals with the subject of a Patent entirely from a theoretical standpoint, something apart from the practical. The influence constantly exerted over him by his environment makes it impossible for him to surround himself with the atmosphere of an inventor. The drawing and the words describing the invention form the extent of his viewpoint. He sees the actual device based on the drawing as through a glass darkly. The different parts of the constructed whole appear to him merely as symbols representing something he must embody in "claims," not as an operative device, which must perform its functions properly and be *sold* at a profit. He does not appreciate in prosecuting the application in the Patent Office the intimate and reciprocal relations existing between the theoretical and practical, but too often considers them as being separate and distinct. Still, how can it be expected he should look at the subject from any other standpoint, from his limited knowledge of the practical.

After looking over the new application I told him I hoped he would see that I received as strong claims as possible in the second Patent. This one was issued in the June of the following year, during which time I had been busy developing my construction as opportunity offered, for I was employed at the time. It was much more practical than my first, as it did not involve the necessity of my manufacturing the inkwell proper, as I had arranged to attach my device to the neck of the ordinary type of square glass inkstand.

In considering the question, as to how much protection I was going to secure on my latter Patent, I came to the conclusion that I ought to learn something about Patent Law and Practice myself, in order to get acquainted with the same. I therefore

started a course of reading on the subject. I perused "Walker," a well-known authority on Patent Law, and other authorities, and made an effort to analyze the "claims" of my second Patent in the light of the knowledge I had acquired.

The result of my study showed me that in the "claims" reside the principal strength of a Patent, and that these so-called "claims" consist of the *essential* parts of the construction (termed "elements"), arranged and described in their natural sequence, which when read as a whole, including the usual explanatory or "limiting" phrases, describe the construction.

I laboriously dissected the claims of my Patent, dividing or sorting out the different "elements" of each claim, arranging them so I could consider them, but not in the most convenient or comprehensive manner, as I did not at the time know of the best method.

After a careful study, which consumed many of my evenings, I was ready to put the following questions to myself, and to try and answer them before I brought the matter to the attention of my attorney.

(1) "What have you got in these claims that is worth while?" (2) "How easy would it be for an infringer to evade the Patent, and how would he probably do it?"

To form an unbiased opinion it became absolutely necessary, as you will appreciate, for me to assume a state of mind diametrically opposed to my own interests. This, as you will admit, must have been exceedingly difficult, when I was so carried away at that time with the importance of my invention; but after much effort, I managed to test my Patent claims from this necessary standpoint.

I might say here that I found this acquired ability to assume an absolutely unbiased position in Patent matters very useful in later years.

I first commenced, in my effort to demolish my own Patent, to disassociate for the time being the *exact* mechanical construction I had devised from the mechanical *drawing* of the Patent, for it was the latter, as defined in the claims, which would be considered by the Court, should it ever be necessary for me to test the strength of my Patent against an infringer. I utilized the first crude analysis I had made of the claims to assist me in trying to evade the claims of my Patent; that is, to secure the same result by some other means.

As you may have forgotten, I will reiterate that the basic principle of my invention was that of keeping the pen-point in the inkwell, and constantly in contact with the ink when the pen was not in use, combined with a means of varying the position of the parts which supported the pen.

Now it is a well-established fact, that if one "element" in every claim, which would otherwise infringe, is eliminated (that is, left out), the Patent as a whole is evaded, or overcome, and any construction which does not contain this "element" would not infringe. In other words, the task I had before me, in my endeavor to evade my own Patent, was to eliminate, if possible, one "element" in the first four claims; and after some study I succeeded in doing so.

There is another and more intricate method of securing the same result, which, because of its complication, I will not try to explain here.

The conclusion forced upon me, after seemingly evading my

own Patent, was that the claims must be extremely *weak*, and I realized that if this conclusion to which I had arrived was substantiated by my Patent Attorney, the Patent, so far as any real protection that I could expect the Courts would give me, was not worth the paper it was printed upon, for if the Patent, as drawn, would not restrain any one who might desire to make an inkstand from securing the advantage of the method I had discovered, it had no real value.

This condition would, of course, have been improved by taking out a Patent on every form which I could have devised, in which the principle of my device could be retained; but as you can readily understand it would take a large sum of money to accomplish this, and it would always be probable that still another means might be devised to evade my Patent.

However, narrow claims are not always necessarily weak. For example: in the celebrated solid rubber vehicle-tire infringement case, the invention was in a so-termed "crowded prior art," several Patents had been issued, both here and abroad, showing wheels with metallic rims with grooves into which rubber tires having internal retaining wires were fitted. The "elements" were narrowed by numerous limiting phrases; but,—and here is the gist of the situation, the particular arrangement shown in the invention, was the so-termed "last step," which resulted in the construction meeting almost universal acceptance and employment. It marked the difference between failure and success, it attained an end not secured by anything in the "prior art," and caused Justice McKenna of the Supreme Court to aptly say:

"Knowledge after the event is always easy, and problems once solved present no difficulties, indeed, may be represented as never having had any."

MY REISSUED PATENT

Once more I had arrived at a stage in my business and Patent career where my hopes seemed completely dashed to the ground, my castles in the air floating away, and an impossible barrier presented to any further effort; but as I am not built on the *give-up plan*, it occurred to me that I had read in one of the Patent books I had consulted, something about a method of reissuing a Patent, and I proceeded to consult the law on Patents again, to ascertain under what circumstances a Patent could be re-issued, and I came to the conclusion it could be accomplished in my case if it could be proven, in the phraseology of the Rules of Practice, "an error had occurred by reason of a deficient or insufficient specification."

You will thoroughly appreciate that by this time I had lost about all the confidence I had in the ability of my Patent Attorney; but as I had no one in mind from whom I could gain more knowledge, I was obliged to call on him in reference to the situation that I thought I had developed; in other words, that my Patent was worse than useless.

During my talk with him in regard to the case, I found him loath to admit that the conditions as I saw them with my inexperienced knowledge were really the true conditions. However, after a discussion and a statement by me that I intended to consult another Patent Attorney, he acknowledged that I was right. I asked him again why he did not draw a claim which admitted

of the *rest* being elevated or depressed without any specific method being mentioned, particularly after I had asked him to try and secure a strong Patent? To which he replied, "He did not know as he could draw one to meet my wishes." And I distinctly remember going to another desk and attempting to put into words a claim which would mention the *rest* element and not specifically include the *arm*, the *nut*, and the *screw*. I succeeded to the extent that the claim No. 5 of my Patent, as finally reissued (given below), was practically my own origination, except for some slight changes in phraseology made by the attorney after I had drawn it up in the rough:

CLAIM NO. 5, REISSUED PATENT NO. 11,112

"In combination with an Inkwell the '*rest*' sustained in said well so as to be variable in altitude therein, and adapted to support a pen with relation to the ink in said well."

If you will carefully study this claim, you will note that the *rest* is the only *defined* "element," no specific or particular method is mentioned as a means to support it; in other words, my effort resulted in a very broad claim. An infringer would be unable to utilize *any* method to vary the position of the *rest* (which to be operative *must* be varied) without infringing this claim. The other four claims of the reissued application were the original claims of my second Patent, and as already described, could be easily evaded, and were therefore of no value. It would have been the fifth claim—that is, the new one—upon which I would have had to rely if it had been necessary to have made an effort to restrain an infringer.

I do not wish any reader to understand that I believe such a flagrant succession of errors of judgment and lack of knowledge is a customary practice with reputable Patent Attorneys. I, however, was particularly unfortunate. Nor do I wish it to be assumed that broad claims are easy, or always possible to secure. The breadth of a claim in a Patent is governed by what is called the "prior state of the part," that is, how many Patents have already been issued on similar devices. Nothing can be claimed that will be allowed by the Patent Examiner in Washington who has charge of your Patent, if the same improvement is shown in a prior Patent.

The application for the reissued Patent made another dent in my money pile, for notwithstanding the fact that the error was the attorney's, I was obliged to stand the cost of the Government fee, which was \$30, for reopening the case and issuing the reissue Patent. I presume I should have considered myself fortunate in not having to pay the attorney his fee for filing it; but he was considerate enough to do the work without expense to me.

I was never sorry afterwards for all this tribulation and trouble, for the knowledge and experience I acquired served me well in my later employment as an inventor and manufacturer of patented products, while in addition it also gave me a greater desire for a more thorough knowledge of the many complications of Patent Law, which I later acquired by further study.

As it may be interesting to the reader, a reduced reproduction of the drawing and specification, including the claims of my Inkstand Patent, are given on page 15. The Patent Office rules

state that "the drawing must show every feature of the invention covered by the claims, and the figures should be consecutively numbered. Various rules are made referring to size of drawing, the kind of paper and ink, character of the line, shading, reference letters, etc., in order that all Patent drawings shall conform to the Patent Office standard.

The rules in reference to the specifications are that the different sections must succeed each other as follows:

(1) Preamble, stating name and address of the applicant and the title of the invention. (2) General statement of the object of the invention. (3) Brief description of the several views of the drawing. (4) Detailed description. (5) Claims. (6) Signature of inventor. (7) Signature of two witnesses. Marginal reference to these subdivisions are shown in the reproduction of the specifications as above mentioned.

I COMMENCE TO MANUFACTURE

Patent questions all settled, I gave up my position and commenced in earnest the business of putting my invention in proper commercial form. This involved, even for such a small device, much thought and deliberation as to its exact form, the materials for constructing the different parts, and the method of assembling. After all these details were decided upon, I placed an order for one thousand of each part.

Then I proceeded to write up a description of my inkstand, explaining how it was constructed, and mentioning all its advantages. I deliberated sometime on a Trade-mark name for the device, and at last called it the "*Pristine*," meaning "original." It is probable that I could not have registered this mark at the Patent Office had I tried, because the law states a Trade-mark must not be "descriptive," but may be suggestive. The Patent Examiner would claim that the word signified it was the first inkstand ever devised, consequently not proper for registration. Never utilize or apply a Trade-mark about which there can be any question of its proper registration, for while the Patent Examiner may grant it, it may be later declared invalid by the Court.

The inkwell was also illustrated by a well-executed half-tone. Then came the question how best to advertise it in order to bring it to the attention of the largest number of users of such devices quickly. I realized that bookkeepers and clerks in offices would be more liable to be interested than any other class; but a difficulty presented itself immediately when I found that I could not secure a mailing list of them. Some reader may ask why I did not commence a personal canvass of this class, and I would answer that I concluded I could create a quicker and wider interest by advertising direct to the user.

After deciding that there was no other means at hand, I personally went through every name in the Boston directory, a city at that time with a population of over half a million within a few miles of the City Hall, and thus laboriously picked out the individual names and addresses of all bookkeepers named therein. As you will admit, a stupendous task, one which I would not undertake to-day at any price that any one would be willing to pay for the undertaking. The tediousness of the work and the eye strain involved is indescribable in words. I proceeded to address and mail the circulars and anxiously awaited results.

It was with a great deal of satisfaction that within a month

UNITED STATES PATENT OFFICE.

HENRY C. THOMSON, OF BOSTON, MASSACHUSETTS.

ADJUSTABLE PEN-REST FOR INKSTANDS.

SPECIFICATION forming part of Reissued Letters Patent No. 11,112, dated September 23, 1890.

Original No. 430,446, dated June 17, 1890. Application for reissue filed August 16, 1890. Serial No. 362,252.

To all whom it may concern:

Be it known that I, HENRY C. THOMSON, a citizen of the United States, residing at Boston, in the county of Suffolk and State of Massachusetts, have invented certain new and useful Improvements in Adjustable Pen-Rests for Inkstands; and I do declare the following to be a full, clear, and exact description of the invention, such as will enable others skilled in the art to which it appertains to make and use the same, reference being had to the accompanying drawings, and to the letters of reference marked thereon, which form a part of this specification.

Figure 1 is a top or plan view, and Fig. 2 a vertical and median section, of an ink-well provided with my invention. Fig. 3 is a vertical section of the pen-rest, taken in a plane at right angles to that of Fig. 2. Fig. 4 is an under side view of said pen-rest.

The object of my invention is to provide a pen-rest that can be readily applied to ink-wells of ordinary construction and sustained in the well in such manner as to admit of easy adjustment in altitude therein to cause the pen when applied to the rest to enter the ink in the well the proper distance to keep said pen while in the rest suitably charged with ink and ready for use when required. The said pen-rest besides furnishing a convenient support for the pen also serves to nearly close the mouth of the well, and thus materially prevents evaporation of the ink.

In the drawings, A denotes the body or casting of an ink-well of common construction, and B the well therein, it being surrounded at top by a neck a, as usual. Said neck is shown as circular and concentric with the well; but it is often made rectangular instead of concentric. In either case I surround said neck with a band C, to which is fixed an arm D, said band and arm being clamped to the said neck by a screw E. In the arm D is a vertical hole b, in which a screw F is arranged to slide, a nut G, screwed on said screw, bearing on the arm and sustaining in the well the pen-rest and closure H, fixed to the lower end of the screw F, and by revolving the nut G said pen-rest can be raised or lowered in the well, as may be desired.

Within the pen-rest is a mouth or opening c to receive the pen, said opening flaring from its bottom upward, and usually a passage d, leading through the said rest and into the opening c. The bottom of said passage d, being horizontal, or thereabout, furnishes a bearing for the end of the pen-holder when applied to the rest, as represented in Fig. 2, and supports it to advantage. The said passage d may, however, be dispensed with, the flaring mouth c answering to receive and support the pen and holder.

From the foregoing it will be seen that with my invention applied to an ink-well a pen and its holder can be supported in the well in such manner that by turning the nut G the rest H will be raised or lowered in the well and the said pen made to enter the ink a suitable distance to properly supply it with the ink and be ready for use when required. This way of supporting a pen is a great convenience and does away with frequent wiping of it, for as the pen is kept wet with the ink it cannot dry and thicken on the pen and cause it to corrode, as usual, it being intended that the pen when in the rest shall enter the ink about as represented in Fig. 2, and as the ink lowers in the well the rest H can be correspondingly lowered by turning the nut G. Furthermore, one side of the opening c is inclined, as shown at e, to support the pen or incline it toward the writer in position to be conveniently grasped by him when required.

What I claim is—

1. The arm D, secured to the well, the screw F, arranged to slide in said arm, the rest H, fixed to the screw and provided with the flaring mouth, and the nut G for varying the altitude of said rest, in combination with an ink-well, as and for the purpose set forth.

2. The arm D, applied to the well and provided with the passage b, the screw F, adapted to slide therein, the rest H, having the mouth c and passage d and fixed to the said screw, and the nut G for raising or lowering the rest, in combination with an ink-well, as and for the purpose explained.

3. The combination, with an ink-well, of the band C, provided with an arm D and clamp-screw E, the adjusting-screw F and nut G, and the rest H, fixed to screw F and provided with an opening to receive and support the pen, the altitude of the said rest in the well being regulated by turning the nut G, as explained.

4. The pen-rest H, provided with the opening c, passage d, and incline e, in combination with the screw F, fixed thereto, the nut G, the arm D, and the ink-well supporting the latter, all essentially as set forth.

5. In combination with an ink-well, the rest sustained in said well so as to be variable in altitude therein and adapted to support a pen with relation to the ink in said well, substantially as set forth.

In testimony whereof I affix my signature in presence of two witnesses.

HENRY C. THOMSON.

Witnesses:
S. N. PIPER, *SIGNATURE OF*
J. H. S. STERN. *INVENTOR*

SIGNATURE OF
TWO WITNESSES

PREAMBLE
GENERAL STATEMENT
DESCRIPTION OF DRAWINGS

DETAILED DESCRIPTION

CLAIMS

WEAK

STRONG CLAIM

I received orders for a number of hundred of my inkstands. This sale firmly convinced me that my invention was practicable, and that it was to achieve a positive success. With these orders I went to the office supply concerns, and on the strength of them, tried to secure stock orders for quantities. My strongest arguments to them were the sales I had already made.

I found them anything but enthusiastic, and to my surprise they wanted a much greater discount from the consumer's price than I had anticipated, which would result in cutting my profits down to a much lower figure than I had figured on; but believing the ultimate profit from the constantly increasing sales, which I expected would follow, would be satisfactory, I eventually agreed to the discount they desired. Even with this discount I did not find them ready to place large orders, and I was obliged to content myself with a small stock order from the different concerns.

As I had not sufficient money for a second thousand, until I received the money from the sale of the first thousand, I waited to learn the results of the efforts which I had made to place the article on the market. Instead of increasing in sale, as I had expected would be the results of my circularizing campaign, the orders began to decrease.

I could not realize the reason for this condition at the time; but I have since learned, and it is confirmed by the opinion of the largest advertising concerns, that after an initial advertising campaign on almost any article, the first orders come from the ready purchasers, that class which will always buy when an advertisement reads well. After which a lull usually occurs in the sales. With any article of merit and proper backing, this period of decreasing sales is but temporary, and is soon followed by a general increase.

I MEET WITH DIFFICULTIES

About this time I began to receive requests for the inkstand on "trial," and I sent out nearly a hundred under this arrangement, feeling confident that they would be purchased after the advantages were ascertained; but even including these, I had not succeeded in selling the full thousand, and I therefore decided to visit New York, where I felt confident I could get them started and quickly dispose of the balance; but, much to my disappointment, I could not sell a sufficient number in that city to even pay my expenses from the profits.

I did not comprehend at the time the reason for my inability to do so; but now, as I look back on the situation, I realize I had practically no chance to get them introduced there. One of the principal reasons being, that they would not buy and put in stock *any* article which had not received the benefit of an extended advertising campaign by the manufacturer. In this they were even more conservative than the Boston concerns. A number of other reasons, too complicated to mention here, increased the difficulty. There were also other business conditions which made my selling campaign to the jobber less attractive to the buyer than several other inkstands on the market.

I was surprised to learn that these large jobbing houses did not seem to be interested as much in the practicability of the article, or its advantages to the retail purchaser, as in its ready sale and profit. I found it a cold world, and the buyer not influenced by any sentimental feelings, and without consideration for my trials and tribulations. His only view-point was that of the "almighty

dollar," and I can thoroughly appreciate, from my later experiences, that he was also thinking as much as to whether the goods might not some day constitute a dead stock, as he was of the question of the profit from the sale.

I came back to Boston with a heavy heart, and I was gradually coming to the conclusion that I could not sell a sufficient number to make the business worth while, at any rate, from a jobbing standpoint. This condition threw me back on to the consumer as my largest customer. The person who actually used inkstands seemed to be my only hope.

I hired agents on a commission basis; but while they sold a number, the profit was not sufficiently attractive to make them stick to the job, and I determined to prove the selling value by starting a personal and direct store-to-store selling campaign myself.

As a result of my efforts, I found I could not get an opportunity to show my device in some of the better offices—many book-keepers and clerks were "too busy" to hear my story and try the device. The smaller concerns would not pay the price. I made a satisfactory income for several weeks from my personal canvass in a district where the sales would be more liable, than in any other, to be the largest.

Then I figuratively sat down and pondered what the net results would be after I had covered Boston *thoroughly*, which would be in a few more weeks, and my sales would be largely limited to those made by the office supply concerns. I could come to no other decision, than that it meant I would be obliged to visit other cities to increase my sales if I expected to make the business successful. This method was, however, impossible, owing to family conditions then prevailing. The only recourse in this situation was for me to make an effort to sell my Patent, or have the device manufactured under a royalty. I therefore corresponded with a number of concerns whose business it was to sell Patents, but without results, for I could not grant them exclusive selling rights, which at that time they insisted upon. I wrote a number of manufacturers of inkstands and office-supply devices, but I could not interest any of them in my proposition. I had come, as the saying goes, "to the end of my rope." I had *failed ignominiously*.

I MAKE A FAILURE

READER,—This story is intended to teach a lesson in the exploitation of a Patented invention, the more because it is a tale of fact and not of fiction, and also because it is a frequent instead of a rare occurrence. Such a story of an unsuccessful experience rarely appears in print. In fact I know of none other.

We read of the fortunes made by Singer, Westinghouse, Bell, Edison, and others, from their inventions, so enticingly portrayed by the "no Patent, no fee" (come into my parlor said the spider to the fly) Patent Attorneys. We do *not* read of the fortunes sunk in fruitless inventive effort, for it is very probable that as much money has been lost in attempting to put inventions of questionable utility on the market as has been made by those that have been proven a success. It is but natural that inventors should be eager to narrate their successes and loath to record their failures. Why, you may ask, do I record mine, when to do so I may lose a possible client from my frankness? First, because I realize that the average inventor is in poor or moderate circumstances. He

cannot afford to lose the amount represented by the fees involved. Second, because I should not wish any inventor to go through the trials and tribulations I experienced through unpreparedness. Third, because he should be informed of the *bitter*, which will help to modify the exaggerated stories of the *sweet*, which are told you by many attorneys, who, in their literature describe the path of invention as being figuratively strewn with roses, leading to a garden where the most exquisite flowers are to be had for the picking. I want to tell you right now that the path is more liable to be represented by a macadamized road *before* it is rolled, and is a toss up whether it terminates in the heights of happiness or the depths of despair.

Why did I fail?

It didn't just happen. There was a reason for it, a determinable one, so clear to me now, that given the same conditions that then existed, I am not sure but that with my present knowledge, drawn from long experience, I might have been successful.

The story as it progresses reveals the reason to a thinking mind, and may well serve as a test of your own powers of perception and judgment.

If you will reread it, and try to determine why, before you continue, you will learn the reason.

I will ask you to start with the assumption that the principle of construction was correct, and if you have not already so concluded, I am confident that you will grant that I possessed a sufficient amount of energy and perseverance, which, however, you must understand constitutes but *part* of the necessary attributes, to the successful outcome of an invention.

It will no doubt be a surprise to many who may be considering patenting an invention to learn, that even with a good principle and sufficient energy and perseverance, failure may result; but it is not only possible, but it occurs more frequently than one would suppose, that an invention, so far as its construction is concerned, is successful, in that it functions or operates correctly, yet proves unsuccessful from a financial standpoint.

We have all heard how surgeons, after an operation that results in the patient's death, maintain vigorously that the operation in itself was successful.

As far as I am able to judge, I attribute, in a *general way*, my failure to the fact that I did not seek authentic information in relation to Patents before I attempted to invent; that I did not have the ability in those days to come to a satisfactory conclusion as to the best manner for me to proceed; and was unable to apply methods of comparison and give due consideration to the difficulties that arose.

I can see now, that owing to my untrained mind it was impossible for me to *compare*, for I had not had sufficient prior experience to furnish me with a means of comparison, and I could not consider *well*, for to do so requires mature thought and a ripened experience, in both which I was then lacking.

This broadly covers the reason for my failure; but in order to bring out the moral of my story with its greatest force and effectiveness, and to do so in a way that will be best understood by every reader, it will be necessary for me to be more specific.

I ANALYZE MY FAILURE

I realized, of course, that business judgment must be exercised,

but I had only a hazy way of looking at the subject. I did not appreciate, as I do so fully at the present time, that the knowledge of the three important factors—Commercial, Financial, and Legal (a working knowledge of Patent Law)—govern the measure of success or failure of every invention.

I did not comprehend then that each had (1) an individual and definite value in the general results, and (2) that combined they had an importance which I had neglected to comprehend, because of my inability to analyze the whole situation. I grasped the fact that I must have a valid Patent, as strong as could be had considering prior Patents; that the invention must be made and the product sold; that money was needed to conduct the business. But the detailed requirements of each problem were not distinct and clearly defined in my mind. With this indistinct conception of the important factors, I could not understandingly attend to the many details in connection therewith. With my untrained mind I was groping around in the dark, trying to find success in a vague way, instead of realizing that each one of these three elementary factors should be analyzed before proceeding.

I also had an incorrect conception of the relative importance of the three factors to which I have referred already. If I had then been asked which of the three I considered of the greatest importance, I should have unhesitatingly, and without believing it possible that I was incorrect, replied that it was the Legal (the Patent Factor), for I had always considered it of supreme importance; whereas, in point of fact, I now realize that I was wrong.

When I say, that in my opinion, it is the Commercial Factor, and not necessarily the Legal, which is of the greatest importance in predetermining success, I wish to add that I have arrived at this conclusion as the result of twenty-odd years of intimate relations with Patents in their many legal and commercial phases.

Conversely, if one truth more than another has been unalterably impressed upon my mind, it is that I feel absolutely positive that the Legal Factor (the Patent) is of the *least* importance, rather than the *greatest*, in a business based on Patents.

In other words, that the arrangement of their relative values should stand. First, the Commercial; second, the Financial; and third, the Legal.

In this position I stand at utter variance with Patent Attorneys as a class, if their opinion, as expressed in their literature and their conversation—in effect that the Patent is of supreme importance—is their true belief. My opinion is based on my combined legal and practical knowledge, whereas, the ordinary Patent Attorney has only the technical side upon which to base his opinion.

Coming back to my story, it was this very vagueness to which I have referred—my inability to grasp the whole of the subject, or its different essential parts in any definite way—that added to my difficulties.

In addition to my ignorance of the general principles just outlined, I knew absolutely nothing about the Science of Manufacturing and Selling, for both have arrived at a point where they can be termed almost an exact science.

I was unacquainted with manufacturing processes, which have so much to do with that important question, "cost of production," which governs the possible profit of every article sold.

I knew nothing about inaugurating a selling campaign, which includes the method of placing a product on the market, and the advertising which forms part of it. I hadn't the least conception

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of the matter of "discount" and its relation to the retail price when sales were made to the jobbers and retailers.

All such questions were those which should have been determined before I *commenced* to do business, instead of *after* I had begun to sell my device. I never came in close relation to the broad financial question in selling my inkstand, as I had not arrived at a point in the manufacturing and selling problem where I was forced to consider it. I provided the finances for my first thousand; but sooner or later, had I gone on, I would have come to a point where I should have been obliged to have secured additional capital, as every small manufacturer does, who is obliged to *buy* for cash and *sell* on time. This soon locks up the resources of a small business.

THE MORAL TAUGHT

Summed up what moral does the story teach?

- (1) That Knowledge is Power.
- (2) That Ignorance and Unpreparedness Result in Almost Certain Failure.

It suggests that every inventor should first secure an authentic working knowledge of Patent Law before he proceeds with the development of his invention, or makes an application for a Patent. He should acquire a knowledge of the pitfalls in the pathway of success, which the Patent Attorneys who hound an inventor to make a Patent application immediately — because of the fee there is in it for them — neglect to advise him are always present. He should acquaint himself with the fact that Trade-marks and Design Patents are closely related to Patents from the commercial standpoint, and acquire a knowledge of them and learn under what conditions it is well to secure the protection they furnish.

He should ponder long and seriously on the matter of the disposition of his Patent — whether to sell, license, or manufacture it. They are questions of momentous consequence, as the decision may govern the measure of success of his inventive effort. He should secure competent counsel to guide him in his procedure if he has not had sufficient experience to properly handle the various legal and practical problems which will arise.

A false step at the beginning may wreck a good prospect.

I close with this admonition:

Submit your invention to these three primary tests. (1) Is it original? (2) Is it needed? (3) Can it be sold and produce actual profit, that is, after all expenses of doing business are deducted? Remembering always, that from your own standpoint, the question is not *Can I get a Patent*, but *Should I take one?*

Lastly. If after careful analysis and mature judgment, based on every particle of knowledge you can get *anywhere*, you believe you *should* take one, MAKE — HASTE — SLOWLY.

A GOOD MAXIM

Many men know how to start a thing, but few know how to keep it going.

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